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Leaks, Leakers and the Law

It is ironic that the case of Michael E. Pillsbury should arise in a week in which this and every other American newspaper were awash in information that could only come from classified intelligence reports. For days, news reports about the Soviet nuclear disaster included many details based on spy-satellite photography and other secret sources. It's a safe bet no one will be disciplined for giving out material that tends to discredit the Soviet Union and thus serves Washington's political aims. Yet in a technical sense these reports were leaks, every bit as much as the story Mr. Pillsbury may have leaked to the *Washington Post* last month on the decision to supply Stinger missiles to anti-communist guerrillas in Afghanistan and Angola.

Mr. Pillsbury, an assistant undersecretary of defense, has lost his Pentagon job, and is under investigation by the Justice Department. The implication that he may be prosecuted awakens the echo of the Samuel Morison case — the first and so far the only successful prosecution of a government employee for leaking secrets to the press. Mr. Morison, who was convicted last year for giving secret satellite photos to a British defense journal, is appealing his conviction. The principal question to be decided is whether the Espionage Act applies only to the transmission of secrets to a foreign

government, which is how it was viewed for nearly seven decades before the Morison case, or whether it can also be used against leakers to the press, as the Morison jury concluded.

It may well take a Supreme Court ruling to settle that issue once and for all. In the meantime, even though it may have the precedent of the Morison decision on its side for the time being, we hope the government will not undertake any more such prosecutions. Firing Mr. Pillsbury ought to be enough to make the point that the government is entitled to discipline its officials. Treating leakers as spies goes in exactly the wrong direction, blurring instead of clarifying the distinction between real and imaginary dangers to national security.

The chief need, in any case, is not to find or punish individual leakers, but to restore some realism to the security classification system. Government files lock up mountainous heaps of classified documents that contain no legitimate secrets and should never have been classified in the first place. The flood of leaks about the Chernobyl affair demonstrates yet again that the release of classified material is not governed by any consistent or rational rules, but by the political circumstances and needs of the moment. If the government expects its employees to respect secrecy rules, it must stop abusing the system itself.